the court, has the right and power to determine for itself who the receiver shall be and to make such distribution of the funds realized within its own jurisdiction as will protect the rights of local parties interested therein, and not permit a foreign court to prejudice the rights of local creditors by removing assets from the local jurisdiction without an order of the court or its approval as to the officer who shall act in the holding and distribution of the property recovered." The nature of the rule of *Booth* v. *Clark* is shown further by the fact that, when by statute the appointment of the receiver operates to transfer title, the foreign receiver may sue in the federal court for another State. See *Bernheimer* v. *Converse*, 206 U. S. 516; compare *Converse* v. *Hamilton*, 224 U. S. 243; *Clark* v. *Williard*, 292 U. S. 112.

The judgment of the Court of Appeals is reversed and the cause is remanded to it for the determination of the questions relating to the liability of the defendants decided by the District Court and presented by the appeal and cross-appeal.

Reversed.

LONG *v.* ANSELL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

No. 18. Argued October 15, 1934.—Decided November 5, 1934.

1. A Senator of the United States, while in the District of Columbia in attendance at a session of the Senate, is immune under Constitution, Art. I, § 6, cl. 1, from arrest in a civil case but not from the service of a summons. P. 82.
2. This constitutional privilege must not be confused with the common law rule that witnesses, suitors and their attorneys, while in attendance in connection with the conduct of one suit, are immune from service in another. P. 83.

63 App. D. C. 68; 69 F. (2d) 386, affirmed.

CERTIORARI, 292 U. S. 619, to review the affirmance of an order denying a motion to quash a summons and the service thereof in an action for libel.

Mr. Seth W. Richardson, with whom *Messrs. Joseph E. Davies, Raymond N. Beebe,* and *Adrian F. Busick* were on the brief, for petitioner.

It seems clear that, prior to the enactment of 12 and 13 W. III and 10 G. III, the privilege from arrest of members of Parliament embraced privilege from service of civil process. *Cassidy* v. *Stewart,* 2 M. & G. 437; *State* v. *District Court,* 34 Wyo. 288; *Bolton* v. *Martin,* (Pa.) 1 Dall. 296. But, in view of those enactments and the difference in jurisdictional conditions, the status of the privilege in England affords little aid in the determination of the question here submitted.

It would seem, however, that, in framing the constitutional provision, the framers must have had in mind the broad meaning of the word "arrest," which, exclusive of statute, had previously prevailed in England, because the early cases in the United States all followed this broad interpretation of the word "arrest."

Language similar to that of Constitution, Art. I, § 6, cl. 1, is found in nearly all of the constitutions of the States, and has been the subject of diverse interpretations.

That the privilege referred to in the Federal Constitution applies only to civil cases, was settled by *Williamson* v. *United States,* 207 U. S. 425. Consequently, the only question remaining is whether the word "arrest" refers only to those few remaining instances of civil arrest where actual detention of the person exists, or, more broadly construed, applies to the service of civil process upon the member of Congress, as originally in England, and as held in early cases immediately following the adoption of the Constitution.

It is, of course, freely conceded that the authorities are not now in accord. The decisions opposed are collected in the opinion below.

Applicable decisions and dicta are to be found in: *Miner* v. *Markham,* 28 Fed. 387; *Bolton* v. *Martin,* (Pa.) 1 Dall. 296; *Geyer's Lessee* v. *Irwin,* (Pa.) 4 Dall. 107, followed in *Gray* v. *Still,* 13 W. N. C. 59, and *Ross* v. *Brown,* 7 Pa. Co. Ct. 142; *Doty* v. *Strong,* 1 Pinney 84; *Anderson* v. *Roundtree,* 1 Pinney 115; *Robbins* v. *Lincoln,* 27 Fed. 342; *Welsh* v. *Mooney,* 33 Oh. Cir. Ct. 214; Note, 76 Am. St. Rep. 534. These clearly support the rule that freedom from arrest includes freedom from service of civil process. It is believed that most of the opposing decisions present various characteristic differences which should have careful consideration. Distinguishing: *United States* v. *Cooper,* 4 Dall. 341; *Case* v. *Rorabacker,* 15 Mich. 537; *Peters* v. *League,* 13 Md. 58; *Respublica* v. *Duane,* 4 Yeates 347; *People* v. *Hofstadtor,* 258 N. Y. 425; *Phillips* v. *Browne,* 270 Ill. 450.

A nonresident who is present in the jurisdiction as suitor or witness may not lawfully be served with process. This privilege is not dependent upon constitution or statute; it has grown out of public policy in the public interest. *Stewart* v. *Ramsden,* 242 U. S. 128; *Wheeler* v. *Flintoff,* 156 Va. 923; *Arnett* v. *Smith,* 165 Miss. 53; *Zimmerman* v. *Buffington,* 121 Neb. 670; *State* v. *District Court,* 34 Wyo. 288; *Murrey* v. *Murrey,* 216 Cal. 707; *Higgins* v. *California Growers,* 288 Fed. 550. It has been extended to national bank officials while attending conferences in other States upon the request of the Governor of a Federal Reserve Bank. *Filer* v. *McCormick,* 260 Fed. 309. The public nature of his service, its importance to his State, and its presumed supreme necessity to the Government, bespeak a greater need for this privilege in the case of a member of Congress than for the other classes of persons mentioned.

The defendant is only present in the District of Columbia as a member of Congress in attendance upon his official duties. His domicile and residence are in the State of Louisiana, where he abides. Courts of Louisiana stand open to the plaintiff to litigate any cause of action which he may have; and the law ought not to deny to the defendant, as a member of Congress, either under the constitutional provision, or under the principles of general law, the privilege which it so freely extends to litigants, witnesses, and even to individuals, on errands connected with the public interest.

Mr. Samuel T. Ansell submitted, *pro se.*

We rest our case upon the opinion of the Court of Appeals and Article I, § 6, of the Constitution. "Arrest" means actual detention of the person.

An examination of the cases cited by petitioner requires us to say that they are not of a character to merit serious consideration or extended discussion.

The law, as we think it has ever been applied in this jurisdiction from the earliest times, was long ago authoritatively declared in *Merrick & Durant* v. *Giddings,* 1 McArthur & Mackey 55, and *Howard* v. *Trust Co.,* 12 App. D. C. 222, in able and exhaustive opinions; and now again by the Court of Appeals in the instant case. These decisions are in entire accord with *Williamson* v. *United States,* 207 U. S. 425, in which this Court manifestly saw no "supreme necessity to the Government" for liberalizing the immunity beyond strict constitutional requirement.

Petitioner's plea made to the courts below and now to the highest of American tribunals seems, to us at least, strikingly, almost disturbingly, strange and foreign—a plea for senatorial prerogative that places the personal wrongs done by a Senator to a private citizen beyond the effective reach of the law. He contends for a judicial

enunciation of a public policy rule under which the District of Columbia would become a retreat in which Senators, Representatives, and everybody else engaged here in public service, would be free from answering for their breaches of contract obligations and their tortious acts done to the person or property of the citizen. He urges that this Court should require the courts here to adopt what he regards as more modern public policy, and, without constitutional or statutory provision, extend the fullest immunity from civil suit not only to suitors and witnesses, but to any person who comes, or is brought, into a foreign jurisdiction of which he is not a resident, on a judicial or public errand and, *a fortiori,* to a Senator of the United States. The "supreme necessity to the Government," it is said, to which private rights must yield, requires that a Senator must not be "subject to the menace of being harassed by private litigation in the District of Columbia." If a Senator, or any of the thousands engaged here in the service of the public, injure or destroy the person, property, or reputation of a citizen, or flout his obligations to merchant, tailor, butcher, baker, this honorable Court is asked to say that the injured citizen shall have no redress in the courts here where the wrong is done, and must be content to follow the wrongdoing Senator into his own bailiwick—poor right indeed.

Experience, we think, would suggest no judicial extension beyond the privileges and immunities fairly established by the specific provision of the Constitution. We are insensible to the argument that this Court should deduce out of the Constitution or its concept of public policy the remarkable immunity contended for.

MR. JUSTICE BRANDEIS delivered the opinion of the Court.

On March 27, 1933, Samuel T. Ansell, a resident of the District of Columbia, brought, in the Supreme Court of

the District, an action for libel against Huey P. Long of Louisiana. The summons was served on the defendant within the District. It directed him to answer and show cause why the plaintiff should not have judgment for the cause of action stated in his declaration. The defendant, appearing specially, and solely for the purpose, filed on April 25, 1933, a motion to quash the summons and the service thereof on the following ground:

"The summons was issued on Monday, March 27, 1933, and served on the defendant on Monday, April 3, 1933, whereas the first session of the Seventy-third Congress was convened on the ninth day of March, 1933, and has remained continuously in session since that date and was in session on the dates of the issuance and service of the said summons (of which fact defendant prays the court to take judicial notice) and the defendant as alleged is a United States Senator who was in attendance upon the meetings of the first session of the Seventy-third Congress of the United States and the summons and service thereof is invalid and of no legal effect whatsoever because in violation of Article I, Section 6, Clause 1, of the Constitution of the United States, which provides that Senators and Representatives of the United States 'shall in all cases except treason, felony, and breach of the peace be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same.'"

On May 9, 1933, the Supreme Court of the District denied the motion, but stayed further proceedings for twenty days pending application to the Court of Appeals of the District for a special appeal. That court allowed the appeal. On February 5, 1934, it affirmed the order denying the motion to quash. 63 App. D. C. 68; 69 F. (2d) 386. This Court granted certiorari. 292 U. S. 619.

Senator Long contends that Article I, Section 6, Clause 1 of the Constitution, confers upon every member of Con-

gress, while in attendance within the District, immunity in civil cases not only from arrest, but also from service of process. Neither the Senate, nor the House of Representatives, has ever asserted such a claim in behalf of its members. Clause 1 defines the extent of the immunity. Its language is exact and leaves no room for a construction which would extend the privilege beyond the terms of the grant. In *Kimberly* v. *Butler*, Fed. Cases No. 7,777, Mr. Chief Justice Chase, sitting in the Circuit Court for the District of Maryland, held that the privilege was limited to exemption from arrest. Compare Mr. Justice Grier, sitting in the Circuit Court of the District of New Jersey in *Nones* v. *Edsall*, Fed. Cases No. 10,290. The courts of the District of Columbia, where the question has been raised from time to time since 1868, have consistently denied the immunity asserted. *Merrick* v. *Giddings*, McArthur & Mackey 55, 67; *Howard* v. *Citizens' Bank & Trust Co.*, 12 App. D. C. 222.[1] State cases passing on similar provisions so hold.[2]

History confirms the conclusion that the immunity is limited to arrest. See opinion of Mr. Justice Wylie in *Merrick* v. *Giddings*. The cases cited in support of the contrary view rest largely upon doubtful notions as to the historic privileges of members of Parliament before the enactment in 1770 of the statute of 10 George III, c. 50.[3] That act declared that members of Parliament

[1] See also *Worth* v. *Norton*, 56 S. C. 56; 33 S. E. 792; *Bartlett* v. *Blair*, 68 N. H. 232; 38 Atl. 1004.

[2] *Phillips* v. *Browne*, 270 Ill. 450; 110 N. E. 601; *Berlet* v. *Weary*, 67 Neb. 75; 93 N. W. 238; *Rhodes* v. *Walsh*, 55 Minn. 542; 57 N. W. 212; *Gentry* v. *Griffith, Hyatt & Co.*, 27 Tex. 461; *Catlett* v. *Morton*, 4 Litt. (Ky.) 122; compare *Doyle-Kidd Dry Goods Co.* v. *Munn*, 151 Ark. 629; 238 S. W. 40; *Huntington* v. *Shultz and M'Kenna*, 1 Harp. L. Rep. (S. C.) 452; *Hart and Foster* v. *Flynn's Executor*, 8 Dana (Ky.) 190.

[3] See *Bolton* v. *Martin*, 1 Dall. 296; *Gyer's Lessee* v. *Irwin*, 4 Dall. 107; *Doty* v. *Strong*, 1 Pinney (Wis.) 84; *Anderson* v. *Rountree*, 1

should be subject to civil process, provided that they were not "arrested or imprisoned." When the Constitution was adopted, arrests in civil suits were still common in America.[4] It is only to such arrests that the provision applies. *Williamson* v. *United States,* 207 U. S. 425.

The constitutional privilege here asserted must not be confused with the common law rule that witnesses, suitors and their attorneys, while in attendance in connection with the conduct of one suit, are immune from service in another. That rule of practice is founded upon the needs of the court, not upon the convenience or preference of the individuals concerned. And the immunity conferred by the court is extended or withheld as judicial necessities require. See *Lamb* v. *Schmitt,* 285 U. S. 222, 225, 226.

Affirmed.

Pinney 115; *Miner* v. *Markham,* 28 Fed. 387. The first of these cases relied upon a passage in Blackstone in which it is stated that no member of either house may be "served with any process of the courts of law . . . without a breach of the privilege of parliament." The passage appears as quoted in the fourth edition of Blackstone (1771), v. 1, p. 165. In the fifth edition (1773), however, the phrase "served with any process of the courts of law" is deleted and other changes made in the same paragraph, so as to correspond with the statute of 10 George III, c. 50. In *Miner* v. *Markham,* the passage is quoted in its original form.

[4] Wyche, Practice of the Supreme Court of the State of New York (2d ed., 1794), p. 50, *et seq.;* Robinson, Practice in Courts of Law and Equity in Virginia (1832), pp. 126–130; Howe, Practice in Civil Actions and Proceedings at Law in Massachusetts (1834), pp. 55–56, 141–148, 181–187; Troubat & Haly, Practice in Civil Actions and Proceedings in Supreme Court of Pennsylvania (1837), pp. 170–189. An early Virginia statute provided that in actions against the Governor and certain other officers of the Commonwealth, a summons should issue "instead of the ordinary process," the capias ad respondendum. Collection of the Acts of the General Assembly of Virginia, Published Pursuant to the Act of 1792 (1794), c. 66, § 23, p. 83, Rev. Code (1819), c. 128, § 68, p. 506.